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BAC

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Speedline Technologies, Inc., assignee of Camelot
Systems, Inc.¹

Serial No. 75/564,484

Stephen J. Holmes of Barlow, Josephs & Holmes, Ltd. for
Speedline Technologies, Inc., assignee of Camelot Systems,
Inc.

John C. Tingley, Trademark Examining Attorney, Law Office
106 (Mary I. Sparrow, Managing Attorney).

Before Hairston, Chapman and Holtzman, Administrative
Trademark Judges.

Opinion by Chapman, Administrative Trademark Judge:

On October 5, 1998 the assignor, Camelot Systems,
Inc., filed an application to register on the Principal
Register the mark MATRIXX for goods ultimately identified

¹ Application Serial No. 75/564,484 was assigned to Speedline Technologies, Inc. in 1999. The assignment is recorded with the Assignment Branch of the USPTO at reel 1845, frame 0200.

as "electronic assembly equipment, namely solder ball dispensing and placement apparatus" in International Class 9. The application was originally based on applicant's assertion of a bona fide intention to use the mark in commerce on the identified goods. Applicant filed an amendment to allege use², which was accepted by the USPTO, with claimed dates of first use and first use in commerce of February 1999 and August 2000, respectively.

Citing Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), the Examining Attorney has finally refused registration on the ground that when applicant's mark is used on the goods identified in the application, it is merely descriptive thereof.

Applicant has appealed, and both applicant and the Examining Attorney have filed briefs. Applicant did not request an oral hearing.

The Examining Attorney explains the asserted merely descriptive nature of the involved mark in connection with the identified goods as follows:

The term "matrix(x)" merely describes a feature of the solder ball placement equipment used in a matrix pattern or ball grid configuration of the electronic assembly equipment. A "matrix" can be a two dimensional array as in ball grid array used

² The specimen submitted with applicant's amendment to allege use is a photograph of applicant's involved apparatus/machine.

in solder ball placement. See enclosed definition of "matrix" in the Modern Dictionary of Electronics. "Matrix" is the phonetic equivalent of "matrix(x)." (Final Office action dated March 16, 2000);

[T]he term "matrix" is merely descriptive because it describes a feature of the solder ball placement equipment. "Matrixx" is the phonetic equivalent of "matrix." Applicant's own literature shows the 750mm [sic-70] x 50mm matrix placement area which is a feature of the solder ball dispensing and placement system." (Second final Office action dated April 11, 2002); and

It is the position of the Examining Attorney that the applicant's mark "MATRIX" merely describes a feature of the solder ball placement apparatus as shown in the literature of record which clearly states that capabilities of the solder ball Matrix [sic-matrix] placement area is 70mm x 50mm, thereby ensuring that the solder spheres does [sic] not free-fall onto the flux. The previously enclosed definition of "matrix" in the Modern Dictionary of Electronics defines "matrix" as a "two dimensional array" as in a ball grid matrix array used in solder ball placement. The dispensing and placement apparatus can place the solder in a matrix array. (Brief, unnumbered pp. 2-3.)

In support of his position the Examining Attorney relies on (i) a definition of "matrix" from the Modern Dictionary of Electronics (undated) as "6. An orderly two-dimensional array"; (ii) applicant's use of the term "matrix" in its product brochure titled "CAMALOT Matrixx™

Sphere Placement System,"³ which lists under "system capabilities" the item "70mm x 50mm matrix placement area (each cycle of the placement head)"; and (iii) excerpted stories retrieved from the Nexis database to show uses relating to "'matrix' of solder" (second final Office action dated April 11, 2002).

The excerpted stories retrieved from the Nexis database and submitted by the Examining Attorney consist of five (of a total of 21 stories) resulting from the Examining Attorney's search for "matrix w/20 solder!" Some examples are set forth below (underlining appears in the excerpted stories):

- (1) Headline: Industry Surges Ahead on
 Imagination, Guts
 ... LumiLeds Lighting's SnapLED
 creates a formidable, metal matrix
 instead of solder joints to hold
 the diodes. ... "Automotive News,"
 February 28, 2000;
- (2) Headline: Stained Glass
 Restoration a Painstaking Process
 ...Reassembly of the window.
 After the individual plates have
 been soldered and a sealant
 applied, they will be layered and
 returned to the wooden frame.
 Copper wires, soldered to the
 bottom plate, pass through the
 succeeding layers and are attached
 to the cast iron matrix for

³ The Board notes that the original applicant is identified throughout the application as "Camelot Systems, Inc."; however, applicant's photograph specimen and its product brochure use the term "Camalot."

dimensional stability. ...
"Chattanooga Times/Chattanooga
Free Press," April 23, 2000; and

- (3) Headline: NEMI's Lead-Free
Assembly Project Reports Latest
Results at APEX 2002
...4. Performed a matrix of solder
reliability tests to allow
comparison of the SnAgCu alloys to
eutectic tin-lead alloy. ...
"Business Wire-Distribution
Business Editors," January 21,
2002.

Applicant explains its goods as follows:

The goods with which Applicant intends to use the mark include solder ball dispensing and placement equipment. In this equipment, solder balls are placed in patterns, referred to as ball grid arrays, during the manufacture of electronic components. (Applicant's November 23, 1999 response, unnumbered p. 2.); and

The Applicant's goods comprise a solder sphere placement system that is capable of fluxing and placement of solder spheres on BGA components in Auer boats, JDEC trays and in strip format. The apparatus receives a component seated in a positioning device and, using special tooling adapted for the particular component, applies flux to the locations of the solder spheres, and then places the solder spheres on the fluxed locations. Each different component requires a unique set of tooling. The apparatus also includes visual inspection systems to confirm proper location and placement of the flux and solder spheres after placement. The apparatus is a highly specialized device used only for a special purpose. (Brief, p. 2.)

Applicant argues that the Internet version of Webster's Dictionary shows eleven different definitions of the word "matrix,"⁴ about five of which provide different and distinct suggestions, each of which could relate to the characteristics of applicant's involved goods (for example, an apparatus providing a "mold or die," or dispensing "the principal metal in an alloy," or dispensing "a binding substance," or in mathematics, calculating the placement of the solder spheres). Applicant further contends that because there are myriad possible meanings of the root term "matrix" in relation to applicant's identified goods, it takes thought to determine which, if any, are relevant in ascertaining the nature of applicant's goods or something about same; and that because the mark MATRIXX does not immediately convey information or an idea of any specific feature about applicant's goods, it is only suggestive thereof.

A mark is merely descriptive if it "forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods." *Abercrombie & Fitch Company v. Hunting World, Incorporated*, 537 F.2d 4, 189 USPQ 759,

⁴ Although this argument regarding the eleven dictionary meanings was first raised in applicant's appeal brief, the Board has considered it because we generally take judicial notice of dictionary definitions. See TBMP §712.01.

765 (2nd Cir. 1976) (emphasis added). See also, *In re Abcor Development Corporation*, 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be merely descriptive, the mark must immediately convey information as to the ingredients, qualities or characteristics of the goods or services with a "degree of particularity." See *In re TMS Corporation of the Americas*, 200 USPQ 57, 59 (TTAB 1978); and *In re Entenmanns Inc.*, 15 USPQ2d 1750, 1751 (TTAB 1990), *aff'd*, *unpub'd*, Fed. Cir. February 13, 1991.

Further, it is well established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. See *In re Consolidated Cigar Co.*, 35 USPQ2d 1290 (TTAB 1995).

The Examining Attorney bears the burden of showing that a mark is merely descriptive of the identified goods or services. See *In re Merrill, Lynch, Pierce, Fenner, and Smith Inc.*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). In this case, it appears that applicant's goods are a highly specialized electronic apparatus. The evidence of record (applicant's specimen photograph, applicant's

product brochure, dictionary definitions, five excerpted stories retrieved from the Nexis database, and the arguments of the Examining Attorney and applicant) does not establish that the mark MATRIXX is merely descriptive of these goods. That is, it has not been established that applicant's mark, used on its "electronic assembly equipment, namely solder ball dispensing and placement apparatus," conveys an immediate idea about the goods with any degree of particularity. It is not clear how the relevant purchasers would regard the term MATRIXX (derived from the word "matrix"). The significance of the mark, when applied to the goods, is ambiguous and unclear.

Simply put, on this record the Board does not have sufficient information about applicant's highly specialized electronic assembly equipment, and the Examining Attorney has failed to establish how the term MATRIXX is merely descriptive of those identified goods.

The Board has noted many times that if there is doubt about the "merely descriptive" character of a mark, that doubt is resolved in applicant's favor, allowing publication of the mark so that any third party may file an opposition to develop a more comprehensive record. See *In re Atavio*, 25 USPQ2d 1361 (TTAB 1992).

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Decision: The refusal to register the mark as merely descriptive under Section 2(e)(1) is reversed.